

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 568 OF 1999
Cuttack, this the 22nd day of February, 2001

Sri Alekh Chandra Naikapplicant

Vrs.

Union of India and others... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the benches of the Central Administrative Tribunal or not? No.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
22.2.2001

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Sri Alekha Charan Naik, aged about 64 years, son of late
Harekrushna Naik, At-Hinjalkhal, P.O-Jilinda,
Via-Narasinghpur, Dist.Cuttack....Applicant

Advocates for applicant-M/s S.N.Mohapatra
K.R.Mohapatra
S.Ghosh

Vrs.

1. Union of India, represented through Director General, Post.New Delhi, Department of Post, Dak Bhawan.
2. Chief Post Master General, Orissa, At/PO-Bhubaneswar, District-Khurda.
3. Superintendent of Post Offices, South Division, Cuttack-1, Cuttack, At/PO/Dist.Cuttack.
4. Inspector of Post Offices, Athgarh Sub-Division, At/PO-Athgarh, Dist.Cuttack...Respondents

Advocate for respondents-Mr.J.K.Nayak
ACGSC

O R D E R
(ORAL)

S.Jom · SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for a direction to the respondents to reinstate him in the post of EDMC, Kamaladiha B.O. or in the alternative direct the respondents to give immediate payment of unpaid salary and other pecuniary benefits in lieu of his continuance in service. There is also a prayer for a declaration that the applicant is due to retire from the post of EDMC on superannuation with effect from 11.7.2000.

2. The respondents have filed counter opposing the prayers of the applicant. No rejoinder has been filed by the applicant. The learned counsel for the petitioner is absent. As this is a case of retired employee who complains against illegal order of superannuation, it is not possible to drag on the matter indefinitely. We have, therefore, heard Shri J.K.Nayak, the learned Additional Standing Counsel for the respondents and have perused the record.

3. For the purpose of considering the petition it is not necessary to go into too many facts of this case. The applicant's case is that he was appointed as EDMC, Kamaladiha B.O. on 17.2.1962. His date of birth is 11.7.1935 and accordingly he should have been superannuated on 11.7.2000. But in order dated 13.2.1998 he was retired with effect from 28.2.1998. In the context of the above, he has come up with the prayers referred to earlier.

4. From the pleadings of the parties we find that in support of his case that his date of birth is 11.7.1935 the applicant has not submitted any documentary proof. He has merely stated that at the time of his appointment he was asked to indicate his date of birth and he indicated his date of birth as 11.7.1935. The respondents have enclosed along with their counter xerox copy of Health Certificate dated 26.8.1962 in respect of the applicant, i.e., immediately after his appointment on 17.2.1962. In this Health Certificate the Medical Officer of the concerned Dispensary has recorded that the applicant's age, according to his own statement, is 30 years and by appearance he also looks 30 years old. This Health Certificate has been signed by the applicant. Acting on this certificate the respondents

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have taken that the applicant was born sometimes in August 1932 and therefore, he was to have retired on 25.8.1997. Apparently, the applicant was continued inadvertently in service and was retired with effect from 28.2.1998. In support of his contention that his date of birth is 11.7.1935 the applicant has not enclosed any document. He has also not indicated that he had earlier represented for changing his date of birth in the service record. On the contrary, from contemporaneous document, we find that at the time of his appointment he was adjudged to be 30 years old going by the Health Certificate. The only representation the applicant has filed is at Annexure-2 and this is dated 25.9.1999, i.e., more than one year after his retirement. The respondents have stated that after his retirement the applicant had received all his dues without protest and thereafter had come up with this representation. In consideration of all the above, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him.

5. In the result, the Original Application is held to be without any merit and the same is rejected but without any order as to costs.

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(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
22.2.2001
VICE-CHAIRMAN